

SUPPLEMENTARY INFORMATION

1989 NPRM

This notice contains a complete revision of Title 46, Code of Federal Regulations, Subchapter T. Subchapter T, consisting of Parts 175 through 187, contains the regulations governing the inspection and certification of small passenger vessels. A small passenger vessel is defined by Title 46, United States Code, Section 2101 as a vessel of less than 100 gross tons carrying more than six passengers. The approximately 4800 vessels which are categorized as small passenger vessels comprise the largest category of commercial vessels subject to inspection in the United States.

Both the Coast Guard and the small passenger vessel industry have realized the need for and the importance of revising the regulations contained in Subchapter T for several years. The last major revision of the subchapter was made in 1963. The Coast Guard has made numerous minor revisions to the regulations since that time, but those revisions have not been sufficient to keep abreast of the many changes affecting the small passenger vessel fleet in the last 20 years.

Although the Coast Guard has periodically reviewed the regulations in Subchapter T in the past, the present effort to revise the regulations was initiated in 1982, and a regulatory docket was established in 1985. Alternatives to a complete revision of Subchapter T were considered. First, the Coast Guard could continue to use the existing regulations. However, because the regulations are outdated, it is necessary to extensively use informal policy. This situation is unsatisfactory since not everyone building and operating small passenger vessel is aware of such policy. Second, individual problems, such as those caused by statutory changes, could be corrected by separate regulatory projects under individual dockets. However, the process to completely make all the necessary changes on an individual basis would be unnecessarily duplicative, more lengthy, and result in more inconsistencies than a complete revision.

Therefore, the Coast Guard is proposing to revise the entire Subchapter T at this time. Proposed regulations for Parts 175 to 185, which include inspection, certification, design, and equipment requirements, are contained in this notice. Proposed revisions of the manning regulations for small passenger vessels are being developed separately under docket CGD 85-080A but in coordination with this project.

As part of this proposal to revise Subchapter T, the Coast Guard is also proposing to revise portions of 46 CFR Subchapter S, Subdivision and Stability, which affect small passenger vessels. Parts 170, 171, and 173 of Subchapter S are proposed to be revised.

A regulatory information number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN number contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

REGULATORY REVISION HISTORY

A Notice of Proposed Rulemaking (NPRM), published in the Federal Register (54 FR 4412) of January 30, 1989, contained a proposed revision of 46 CFR chapter I, subchapter T, concerning the inspection and certification of small passenger vessels. The NPRM also proposed a revision to those portions of 46 CFR chapter I, subchapter S, affecting the subdivision and stability of small passenger vessels. The NPRM comment period was originally scheduled to expire on May 31, 1989, but was extended to July 31, 1989. Public meetings were held on the NPRM in Washington, DC, St. Louis, New Orleans, San Francisco, Chicago, and Boston. Over 225 people attended and 116 presented their views at the meetings.

The Coast Guard received over 300 comment letters on the NPRM providing both support and criticism of the various proposed changes. Based on the comments received, the Coast Guard published a Supplemental Notice of Proposed Rulemaking (SNPRM) (59 FR 1994) on January 13, 1994. The SNPRM significantly changed the NPRM by proposing:

- (1) The creation of a separate, new subchapter (46 CFR chapter I, subchapter K) just for small passenger vessels carrying more than 150 passengers or having overnight accommodations for more than 49 passengers;
- (2) Alternatives to certain required lifesaving equipment;
- (3) Greater recognition of industry standards; and
- (4) The establishment of new upper limits above which a vessel would have to comply with the construction and outfitting requirements applicable to a passenger vessel of more than 100 gross tons.

During the 150 day comment period, the Coast Guard received over 160 letters raising over 900 separate issues. Public meetings were held on the SNPRM in New London, Seattle, Chicago, Annapolis, Tampa, Cincinnati, and Long Beach. Over 225 people attended and 80 presented their views at the meetings.

On January 10, 1996, the Coast Guard published an Interim Final Rule (IFR) in the Federal Register (61 FR 864). The IFR was different from the previous rules proposed by the Coast Guard in that the IFR not only provided an opportunity for public comment, but became an effective, enforceable regulation on March 11, 1996. During the 150 day comment period, the Coast Guard received 37 letters containing over 350 comments. Public meetings were held on the IFR in St. Louis, Oakland, Mobile, and New Haven. Over 130 people attended and 36 members of the public presented their views on the IFR at the meetings.

On September 30, 1997, The Coast Guard Published the Final Rule in the Federal Register (62 FR 51326). The body of regulations was codified into the 1997 edition of the Code of Federal Regulation.

BACKGROUND

Subchapter T contains the regulations for the inspection and certification of small passenger vessels including construction, outfitting of lifesaving and fire protection equipment, machinery and electrical installations, and operational requirements.

History of Regulations (NPRM)

The regulations in Subchapter T were initially developed in the late 1950's as an outgrowth of the booming boating industry and the recognized need for improved safety aboard small passenger vessels. During 1951 the motorboats JACK and PELICAN were lost resulting in 11 and 45 deaths, respectively. Investigations into the accidents concluded that if such vessels were required by law to be inspected for certification the JACK would not have been certificated due to its poor material condition and the PELICAN would have been limited to carrying about 30 persons (there were 62 persons aboard at the time of the accident). These and other accidents prompted Congress to pass the "Small Passenger Vessel Act" 1956 (Pub. L. 84-519) requiring the inspection and certification of vessels of 65 feet or less in length, measuring more than 15 but less than 100 gross tons, and carrying more than 6 passengers. Public Law 84-519 was codified in the United States Code in 46 U.S.C 390.

Under the authority of the Secretary of Treasury, the U.S Coast Guard was directed to develop regulations to carry out the law. The initial regulations applicable to small passenger vessels subject to Pub. L. 84-519 were promulgated in Title 46 Code of Federal Regulations, Subchapter T, in the Federal Register of October 5, 1957 (22 FR 7949). The initial regulations took effect on June 1, 1958. Based on experience gained with the initial inspection and certification of more than 4,000 small passenger vessels, significant changes were made to Subchapter T on September 29, 1960, as published in the Federal Register (25 FR 9315).

In 1963 the scope of the regulations in Subchapter T was broadened to include vessels of more than 65 feet in length, measuring less than 100 gross tons, and carrying one or more passengers (28 FR 9733). Such vessels were required to be inspected and certificated annually under the authority of 46 U.S.C 404. By including these small vessels under Subchapter T the need for referencing several subchapters when determining the applicable requirements for these small vessels was eliminated, and the regulations for all small passenger vessels were grouped into one subchapter.

The grouping of two classes of small passenger vessels with different inspection authorities, 46 U.S.C 390 and 46 U.S.C 404, under one set of inspection regulations resulted in the Coast Guard establishing two statutorily recognized categories of vessels within Subchapter T. The division was necessary because of differences in the inspection laws governing the two categories of small passenger vessels. Although the governing laws have changed, the distinction between the two categories remains in Subchapter T today. The two categories are T-S vessels, which include small passenger vessels of not more than 65 feet in length carrying more than 6 passengers, and T-L vessels, which include those of more than 65 feet in length carrying one or more passengers.

Although many of the requirements are the same, Subchapter T contains many differing requirements for each vessel category, reflecting vessel size, potential passenger carrying capacity, and operating conditions. Due to original differences in 46 U.S.C 390

and 46 U.S.C 404, T-S vessels are issued a Certificate of Inspection (COI) valid for three years following completion of a triennial inspection, while T-L vessels are issued a COI valid for one year following an annual inspection. Additionally, a T-S vessel is required to undergo two annual reinspections during the life of its COI.

Public Law 84-519 intended that the regulations promulgated thereunder provide a standard of safety for weekend fishermen on party fishing boats, sightseers on small excursion boats, and possibly small ferries. The vessels to be regulated were of various designs, often principally owned by individuals or families, and normally operated on a tight budget. They usually operated out of a single port and, for the most part, would be inspected and certificated by a single Officer in Charge, Marine Inspection (OCMI). In an attempt to equitably regulate such a diverse group of vessels, many having operated safely for years, the Coast Guard developed regulations which were flexible. They were purposely written so that local peculiarities and differing types of vessels and operations could be equitably accounted for by the local OCMI when applying the regulations. For the most part, the regulations had different requirements for each vessel type, reflecting vessel size, potential passenger carrying capacity, and potential operating conditions.

The regulations gave the local Officers in Charge, Marine Inspection, a great deal of discretion to set the safety standards for small passenger vessels built and operated in their zones. This was in recognition of the small size and limited operating areas of most small passenger vessels. Since the OCMI had knowledge of local operating conditions, such as weather and sea conditions, the availability of harbors of safe refuge, search and rescue facilities, and other specialized local knowledge, the regulations were structured to give the OCMI maximum flexibility to set standards that were appropriate to the prevalent conditions. The OCMI decided which of the local factors impacted upon vessel operations and safety, and then set appropriate standards as allowed by the regulations.

Several minor revisions have been made to Subchapter T since it underwent its last major revision in 1963. However, the minor revisions have not kept abreast of the numerous changes which have occurred affecting the small passenger vessel fleet since the early 1980's. The regulations generally remain satisfactory for the type of vessels that they were initially written for, including party fishing boats, small excursion boats, and small ferries. However, numerous other types of small passenger vessels are now regulated by Subchapter T including large overnight cruise vessels, very large excursion vessels, dynamically supported craft, and vessels which may operate in several Coast Guard marine inspection zones throughout the year. In addition, both statutory changes and technological advances have affected the construction, equipping and operation of small passenger vessels.

Small Passenger Vessel Fleet (NPRM)

Statistics in this section show the large number and variety of vessels which presently comprise the small passenger vessel fleet. The large number and variety both contribute to the need to revise Subchapter T and complicate the revision process. Most of the statistics in this section and throughout the preamble were obtained from the U.S. Coast Guard Marine Safety Information System (MSIS) in late 1987. Information from the MSIS was also used in completing the regulatory evaluation.

The service of small passenger vessels currently operating includes ferries, excursion boats used for sightseeing and dinner cruises, overnight cruise boats, party fishing (head) boats, charter fishing boats, dive boats, crew boats for the offshore oil industry many of which also carry freight, passenger barges, and submersibles. Small passenger vessels are now propelled by a variety of means including diesel engines; gasoline inboard, inboard/outboard, and outboard motors; electric motors; cable pull; mule tow; sail; and steam engines.

An MSIS data capture in July, 1987, indicated there were 4744 vessels certificated under Subchapter T. Of the 4744 vessels, 3657 were classed as T-S vessels, i.e., of not more than 65 feet in length, and 1087 were T-L vessels, i.e., of more than 65 feet in length. Twenty-two vessels were greater than 150 feet in length.

Eleven hundred thirty-three vessels were certificated with oceans routes, 1553 with coastwise routes, 1083 with lakes, bays, and sounds routes, and 975 with Great Lakes or rivers routes.

The maximum number of passengers that small passenger vessels are permitted to carry varies from 7 to over 1300. The passenger carrying capacity of the total small passenger vessel fleet is 303,000.

Fifty percent of the existing small passenger vessel fleet has been built since 1970. Approximately 185 new vessels have entered the small passenger vessel fleet every year since that date.

Reason for Revision (NPRM)

The following events, which have occurred since the initial promulgation of the regulations, necessitate a complete revision of Subchapter T.

1. *Statutory Changes.* Subchapter T needs to be revised to reflect the Statutory changes originally made by Pub. L. 96-378 and now codified in Title 46 of the U.S. Code. This change placed all vessels measuring less than 100 gross tons carrying more than 6 passengers under the inspection authority of a single statute, 46 U.S.C. 390. Section 390 was subsequently repealed by Pub. L. 98-89 of August 26, 1983. Pub. L. 98-89 revised, consolidated, and enacted certain laws related to vessels and seamen as Subtitle 11 of Title 46 United States Code, "Shipping." The authority for the inspection and certification of small passenger vessels was relocated to and is now found in 46 U.S.C. 3301(8).

As a result of the changes originally made by Pub. L. 96-378, there is no longer a statutory authority separating small passenger vessels into two categories. However, the T-S and T-L categories still exist in Subchapter T. Additionally, the T-L vessel designation in Subchapter T is now incorrect in that it still classifies a vessel carrying one or more passengers as a small passenger vessel while the law states that the criterion is more than six passengers.

2. *Increase in Vessel Size and Capacity.* Another reason for modifying Subchapter T is so that it will better reflect the needs of the increasingly larger physical size of small passenger vessels. A review of the data on small passenger vessels indicates a general trend toward larger vessels. In 1964, the first year that statistics were available which separated small passenger vessels by T-S and T-L categories, there were 3809 small passenger vessels. Of these, 175 or 4.6% were classified as T-L vessels. As of July 30, 1987, the number of T-L vessels had risen to 1087 vessels, or 24% of the total number of

small passenger vessels. While the T-S and T-L categories primarily reflect a vessel's length T-L vessels also generally have a greater passenger capacity than T-S vessels.

In addition, there is an increasing number of vessels characterized as "very large" small passenger vessels by the U.S. Coast Guard Navigation and Vessel Inspection Circular No. 11-83 (NVIC 11-83). Such vessels are under 100 gross tons yet are of more than 79 feet in length. There are now approximately 840 small passenger vessels of more than 79 feet in length including some that are of more than 200 feet in length and carry more than 1000 passengers.

NVIC 11-83 discusses such "very large" small passenger vessels that have overnight accommodations for more than 50 passengers. The hazards involved with the operation of these large overnight cruise vessels are different than those faced by most small passenger vessels. There are now about 18 vessels of this type. One "very large" small passenger vessel, which was recently certificated, is of more than 240 feet in length and carries 128 overnight passengers.

A primary reason for the vast increase in the number of T-L vessels, especially "very large" small passenger vessels, has been the development and increased use of various design innovations. These innovations result in the gross tonnage of a vessel being less than that of a passenger vessel of comparable size which would have to be inspected under 46 CFR Subchapter H (Passenger Vessels). Subchapter H contains the regulations for the inspection and certification of vessels of at least 100 gross tons carrying passengers.

Boat builders are gaining more expertise in the use of the various exemptions, reductions, and other devices which are used in the basic tonnage formula to lower gross tonnage. The use of these innovations is not only to place a vessel under the inspection standards of Subchapter T, which are in most instances significantly less stringent than the standards of Subchapter H, but also to allow the vessel to be manned with the lesser crew complement permitted on small passenger vessels.

The existing regulations in Subchapter T were not developed considering the hazards and risks associated with the operation of these "very large" small passenger vessels. Compliance with the existing regulations in Subchapter T alone does not provide an adequate level of safety from the hazards and risks caused by the physical size, passenger capacity, and operations of "very large" small passenger vessels.

3. *Changing Scope of Operation.* While vessels have been getting larger, their trades have also often changed. Public Law 84-59 intended that the regulations promulgated thereunder provide a standard of safety for weekend fishermen, sightseers, and possibly small ferries. The vessels to be regulated principally operated out of a single-port and, for the most part, were inspected and certificated by a single OCMI. Most of the vessels continued to operate in the marine inspection zone where their original inspection for certification was completed. Because of the very localized nature of most small passenger vessels when the regulations were initially developed, the regulations were intentionally made flexible. They were purposely written in this manner so that local peculiarities and different types of vessels and operations could be equitably accounted for by local officials when applying the regulations. However, the environment in which small passenger vessels operate has changed dramatically. A sizable number of these vessels no longer operate out of one port, especially those in seasonal passenger trades, and local considerations are of less importance to most of these operations. Vessels built

for operation in one OCMI zone or for a particular type of operation, are for various reasons changing operations and operating in other OCMI zones or other trades. There are now also more small passenger vessels engaged in international voyages which are required to comply with the International Convention for Safety of Life at Sea.

Because of the changing scope of operations, the flexibility built into the original regulations now often causes inconsistencies. The standards applied in one port are not the same as those applied in another even the standards within a marine inspection zone vary as OCMI's change. The Coast Guard's ability to consistently apply and enforce the regulations will be enhanced by development of a single set of standards more applicable to all small passenger vessels.

4. *Technological Advances.* Subchapter T does not presently address many technological advances which have occurred since the regulations were initially promulgated. Such advances have helped improve the operational capability and safety of a vessel. Examples include improvements in fire protection equipment such as Halon systems and the development and proven use of smoke detectors, gasoline vapor detectors, bilge level alarms, and improved electrical cable insulations. Industry has responded to many recent advances by developing industrial standards and codes, not presently addressed in Subchapter T, which will help ensure uniform and safe design, construction, and installation of equipment and materials used aboard small passenger vessels. There has also been a significant cost reduction in many types of equipment due to technological advances and increased use of such equipment including Halon fire extinguishing systems, radar, LORAN, and inflatable liferafts. A piece of equipment, such as LORAN, was prohibitively more expensive and more difficult to use several years ago than today. The regulations need to be revised to reflect these technological changes by, in some cases, allowing the use of certain equipment now prohibited and, in other cases, requiring the installation of equipment not previously available or feasible to install on a small passenger vessel.

5. *Development in Hull Materials and Vessel Designs.* The use of fiber reinforced plastic (FRP) and aluminum has significantly increased in the last 25 years. Approximately 16 percent of all small passenger vessels now have FRP hulls. Of the vessels built within the last three years, 29 percent have FRP hulls and 26 percent have aluminum hulls. When the regulations were initially promulgated, almost all small passenger vessels were built completely of steel or wood.

Additionally, the present regulations do not appropriately address the unique design and operating characteristics and capabilities of many vessels which twenty years ago were considered novel craft but which have become much more common and accepted. Included among these vessels are dynamically supported craft (DSC) such as hydrofoils, air cushion vessels, and surface effect ships. Certain high speed planing and semi-planing vessels may also be considered DSC. Presently, the U.S. Coast Guard Marine Safety Information System lists 4 hydrofoils, 1 air cushion vessel, and 5 surface effect ships as certificated small passenger vessels. Additionally, there are approximately 130 multihull vessels certificated as small passenger vessels of which 25 may be dynamically supported when underway due to their speed capability and size. The number of such vessels used to carry passengers is expected to greatly increase in the future.

Since Subchapter T was written primarily for displacement hulls, it is difficult to apply many areas of the existing regulations to DSC. Builders and owners have increasingly asked the Coast Guard to accept the design of DSC under the equivalency provision of existing 46 CFR 175.15 on the basis that particular equipment, apparatus, or arrangements required by Subchapter T are unreasonable or impracticable for a DSC. In each case, the parties requesting Coast Guard approval of design or equipment are required to demonstrate that proposed alternatives would provide a degree of safety that meets or exceeds the minimum standards in Subchapter T. Such equivalencies are usually based on compliance with the International Maritime Organization's "Code of Safety for Dynamically Supported Craft" (DSC Code), as well as classification, society rules and DSC standards of other governments. Because DSC are not specifically addressed in Subchapter T, the inconvenience of demonstrating equivalency is an increasingly burdensome task for industry and the Coast Guard. For this reason, and because DSC are no longer considered novel craft due to their wide acceptance and increasing number, Subchapter T should be revised to specifically address dynamically supported craft.

6. Vessel Casualties. Following investigations of numerous casualties involving inspected small passenger vessels, the National Transportation Safety Board (NTSB) and Coast Guard investigators have recommended many revisions to the existing regulations in Subchapter T which they believe would help prevent casualties or alleviate damages and injuries from future casualties. The Coast Guard agrees with many of the investigation recommendations that have been made. A study of the existing regulations, National Transportation Safety Board reports, and Coast Guard vessel casualty reports reveals that the existing regulations do not provide an appropriate level of protection from the safety hazards and risks that many small passenger vessels are subject to today. The primary areas of concern are lifesaving equipment, fire protection standards, manning, and vessel operations.

Casualty Data. As part of the project to revise Subchapter T, data on casualties involving small passenger vessels was reviewed looking for the repeated occurrence of certain types of casualties which may have been mitigated by changes in the regulations. The casualty information presented below is a summary of the data for inspected small passenger vessels from 1981 through 1986. This six year period is used because the Coast Guard's Commercial Casualty Data Base and the Personnel Casualty Data Base, from which the information was obtained, were first used in 1981. These systems provide more reliable casualty information than available from data systems used in previous years. The casualty figures which follow reflect reported casualties over the six year period with interpolation necessary in some cases. Their accuracy may be affected by the failure to report some casualties.

The data presented only includes marine casualties which are required to be reported to the Coast Guard by 46 U.S.C. 6101 and 46 CFR 4.05-1 of Subchapter T. Casualties must be reported to the Coast Guard if they involve groundings, loss of maneuvering capability, an occurrence affecting the seaworthiness of a vessel a loss of life, injury which requires professional medical treatment beyond first aid, in the case of a person engaged or employed on board a vessel in commercial service, which renders the individual unfit to perform routine vessel duties, or any casualty resulting in more than \$25,000 in property damage.

1981 - 1986 Small Passenger Vessel Casualties

Nature	Number of casualties	Deaths	Injuries
Casualties involving total loss of a vessel with accompanying deaths and injuries:			
Collision	9	1	2
Sank/Broke Up/Fire (while moored)	8	0	0
Explosion/Fire (other than while moored)	8	0	0
Flooding/Foundering (8 had wood hulls)	11	9	4
Capsizing	4	0	3
Unknown	2	<u>3</u>	0
Grounding	2	<u>0</u>	0
Total	44	13	9
Casualties materially affecting a vessel (including total loss) with accompanying deaths and injuries:			
Collision	156	2	57
Explosion/Fire	74	0	11
Capsizing/Foundering/Flooding/Swamping	128	13	11
Grounding	182	1	9
Material failure - to machinery, structure, control and navigating systems	248	1	5
Steering	43	0	0
Disabled	34	0	0
Other	42	6	0
Total	907	23	94

1981 - 1986 Total Deaths Involving Small Passenger Vessels
(Includes deaths from casualties materially affecting a vessel)

Nature	Number
Diving accident involving person transported to dive site by small passenger vessel	39
Fall into water	29
Suffocation	12
Disappearance	5
Natural cause	5
Other (including falls on board, burns falling objects, crushed)	22
Total	112

Significant Casualties. Several casualties have occurred in the past twenty years which individually have had a significant impact on this proposal. A large number of lives were lost or put at risk during those casualties, or extensive property damage occurred. The NTSB, Coast Guard Marine Boards of Investigation, and/or individual Coast Guard investigators made recommendations which impact this proposal. A summary of some of the casualties, which resulted in recommendations that were considered in developing proposed changes to Subchapter T, follows. Unless otherwise stated, all the vessels cited were inspected small passenger vessels.

COMET. The COMET was a 48 foot, 15 gross ton, party fishing boat. At 8:00 a.m. on May 19, 1973, the vessel foundered and sank in heavy seas off Point Judith Harbor, Rhode Island. The water temperature was 48 °F. Of the 27 persons on board, 11 were rescued, 12 drowned, and 4 are missing. The COMET was not inspected by the Coast Guard at the time of the casualty although it was required to have been.

DIXIE LEE II. The DIXIE LEE II was a 42 foot, 19 gross ton, charter fishing vessel. At 4:25 p.m. on June 6, 1977, the vessel capsized during a sudden severe thunderstorm. Of the 27 persons on board, 14 persons were rescued, 12 persons died, and 1 is missing. The vessel suffered only minor damage, was refloated, and returned to service.

FANTASY ISLANDER. The FANTASY ISLANDER was a 42 foot, 14 gross ton, wooden vessel. At 3:45 p.m. on September 4, 1984, the vessel caught on fire on Peace River, Punta Gorda, Florida. The 37 persons aboard entered the water and were rescued by boats in the vicinity. There were no injuries but the vessel was totally destroyed.

FINALISTA 100. The FINALISTA 100 was an 84 foot, 98 gross tons, wooden hull vessel. At 4:00 a.m. on October 23, 1982, the vessel burned and sank while operating 37 miles southwest of Point Buchon, California after a fire started in the vessel's machinery space. The water temperature was 50 °F to 60 °F. All 43 persons on board were saved.

FISH-N-FOOL. The FISH-N-FOOL was a 55 foot, 69 gross ton, chartered fishing vessel. At 1:00 p.m. on February 5, 1987, the vessel capsized while off of Baja California Norte, Mexico, and sank in 59 °F water. Of the 12 persons aboard, 2 were rescued, 2 died, and 8 are missing.

JOAN LA RIE III. The JOAN LA RIE III was a 50 foot, 29 gross ton, charter fishing vessel. At 11:46 a.m. on October 24, 1982, the vessel was swamped by a large wave and sank about 8.5 miles east of Manasquan, New Jersey, while returning from a fishing trip.

The water temperature was 53 °F . Of the 22 persons on board, 6 persons drowned and 2 are missing. Property loss was estimated at \$20,000.

MERRY JANE. The MERRY JANE was a 64 foot, 68 gross ton, charter fishing boat. At 4.11 a.m. on February 8, 1986, while the vessel was approaching Bodega Bay, California, the vessel was broached and heeled sharply to starboard resulting in 19 of the 51 persons onboard being thrown or falling into the water. Nine of those persons drowned and one is missing.

PEARL C. The PEARL C. was a 31 foot, 14 gross ton, charter fishing vessel. At 8:51 p.m. on September 13, 1976, the vessel capsized while being towed across the Columbia River Bar, near Astoria, Oregon. Of the 10 persons aboard, 2 persons were rescued, 1 person drowned, and 7 persons are missing. The vessel was a total loss.

PILGRIM BELLE. The PILGRIM BELLE was a 192 foot, 96 gross ton, vessel with overnight accommodations for 104 passengers and 25 crew members. It was certificated for a lakes, bays, and sounds route along the east coast of the United States and coastwise along the New Jersey shore. At 4:20 p.m. on July 28, 1985, the vessel ran aground in Vineyard Sound, Massachusetts. One hundred persons were evacuated directly on to other vessels in the area. No deaths or injuries occurred. \$357,000 In property damage occurred.

SAN MATEO. The SAN MATEO was a 40 foot, 14 gross ton, charter fishing vessel. At 10:00 a.m. on February 16, 1983, the vessel capsized while crossing a bar at the entrance to Morro Bay Harbor, California. All 32 persons on board were thrown into the water. Three persons were seriously injured. All persons were quickly rescued by nearby harbor patrol and Coast Guard vessels. The vessel was destroyed.

YANKEE. The YANKEE is a 136 foot, 425 gross tons, passenger vessel, inspected under Subchapter H, which is permitted to operate on lakes, bays, and sounds. The Yankee is similar in physical size to many "very large" small passenger vessels with overnight accommodations. At 3:53 p.m. on July 2, 1983, the YANKEE collided with a Liberian freight ship, the HARBEL TAPPER, in dense fog in Rhode Island Sound. Two of the Yankee's 139 passengers were injured. The YANKEE sustained \$26,000 in damages and was temporarily out of service. The HARBEL TAPPER, an 8,000 gross ton ship, sustained \$25,000 in damages.

7. Reference Changes. During the past twenty-five years, many references cited in the existing regulations have changed. New publications have superseded the original publications and, in some cases, new standards have been developed. The existing references need to be updated and the addresses for listed organizations corrected. Additionally, several industry standards exist which may be suitable for incorporation by reference into the regulations. In some cases, industry standards are more current and better suited for particular types of vessels than existing regulations.

8. Extensive Policy Guidance. For many of the same reasons that Subchapter T needs to be revised, the Coast Guard has issued a myriad of policy decisions at the local, district, and headquarters level on the technical interpretation and enforcement of Subchapter T. The policies have been promulgated in Navigation and Vessel Inspection Circulars (NVICs), the Coast Guard Marine Safety Manual, policy file memos from the Commandant (G-MTH) and letters. Differences in local policies have created many inconsistencies among inspection zones.

Local policy determination, while acceptable in 1958, creates inconsistencies and economic hardship when a vessel built in one marine inspection zone, operates during the summer in another zone, and spends the winter season in a third zone. Additionally, differences in local standards may put a builder in one zone at an economic disadvantage when bidding against a builder in another zone which has a different policy.

DEVELOPMENT OF PROPOSED REGULATIONS

1989 NPRM

In developing the proposed Regulations the laws governing small passenger vessels, Coast Guard policy on enforcement of the existing regulations, and recommendations stemming from casualty investigations were considered. Additionally, comments on and suggested revisions to the existing regulations made by Coast Guard field units and individuals and organization. involved in the small passenger vessel industry were evaluated.

Coast Guard Field Input

Since the initial promulgation of Subchapter T, Coast Guard district offices, marine safety offices, and marine inspection offices have periodically recommended revising various requirement of the small passenger vessel regulations. Field units submitted recommendations to the Commandant usually based on specific problems they were experiencing with the application, adequacy, or burden of particular requirements to vessels within their local inspection zones. Numerous comments were also submitted when, in 1982, the Commandant initiated a review of Subchapter T by soliciting recommended changes to the regulations from field units.

Industry Input

Owners and managing operators of small passenger vessels have provided indirect input to this proposed rulemaking through the numerous requests for equivalents and appeals of requirements made under the existing § 175.15-1 and § 175.30-15 of Subchapter T. Many proposals accepted as part of an appeal or equivalency determination have been incorporated into this proposed rulemaking.

The expressed concerns of the National Association of Passenger Vessel Owners (NAPVO), as well as other industry organizations, that the structural fire protection requirements of Subchapter T are often too onerous resulted in the initiation of Coast Guard Docket CGD 85-021. NAPVO is a trade association of approximately 330 small passenger vessel owners who operate primarily excursion boats, dinner cruise boats, and ferries. The small passenger vessel organizations were primarily concerned about the application of the structural fire protection requirements of 46 CFR Subchapter H (Passenger Vessels) to vessels carrying more than 150 passengers.

On April 8, 1985, the Coast Guard published in the **Federal Register** (50 FR 13837) a request for comment and notice of meeting on fire protection standards for small passenger vessels under CGD 85-021. The public meeting was held on April 17, 1985. Eighteen individuals involved with the small passenger vessel industry attended the public meeting. Eight separate letters containing numerous comments from individuals and organizations involved with small passenger vessels were submitted in response to the request for comments. The written comments and those received at the public meeting covered a much larger range of regulatory topics than was originally intended by the scope of CGD 85-021.

Because of the broad range of comments received under CGD 85-021 and for the other reasons discussed above in *Reason for Revision*, the Coast Guard decided to initiate a complete revision of Subchapter T under CGD 85-080. Consequently, CGD 85-021 was cancelled on December 24, 1985. Comments received under CGD 85-021 were transferred to CGD 85-080 and were considered in the development of this proposed rulemaking.